

## **NOTICE OF PROPOSED REGULATIONS**

### **California Code of Regulations Title 15, Crime Prevention and Corrections Department of Corrections and Rehabilitation**

**NOTICE IS HEREBY GIVEN** that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Section 5058 and 5058.3, in order to implement, interpret and make specific PC Section 5009, proposes to amend Sections 3000, 3190, 3213, and 3334, of the California Code of Regulations (CCR), Title 15, Division 3, concerning Inmate Religious Property.

#### **PUBLIC HEARING:**

Date and Time: **May 7, 2013 - 10:00 a.m. to 11:00 a.m.**

Place: Department of Corrections and Rehabilitation  
Kern Room  
1515 S Street – North Building  
Sacramento, CA 95811

Purpose: To receive comments about this action.

#### **PUBLIC COMMENT PERIOD:**

The public comment period will close **May 7, 2013 at 5:00 p.m.** Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 324-6075; or by e-mail at [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov) before the close of the comment period.

#### **CONTACT PERSON:**

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief  
Regulation and Policy Management Branch  
Department of Corrections and Rehabilitation  
P.O. Box 942883, Sacramento, CA 94283-0001  
Telephone (916) 445-2269**

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

**S. Pollock  
Regulation and Policy Management Branch  
Telephone (916) 445-2266**

Questions regarding the substance of the proposed regulatory action should be directed to:

**Albert Chamberlin  
Division of Adult Institutions, General Population - Males  
(916) 323-2160**

#### **LOCAL MANDATES:**

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500 - 17630.

### **FISCAL IMPACT STATEMENT:**

- Cost to any local agency or school district that is required to be reimbursed: *none*
- Cost or savings to any state agency: *none*
- Other nondiscretionary cost or savings imposed on local agencies: *none*
- Cost or savings in federal funding to the State: *none*

### **EFFECT ON HOUSING COSTS:**

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

### **SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT AFFECTING BUSINESSES:**

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

### **RESULTS OF ECONOMIC IMPACT ASSESSMENT:**

The Department has determined that the proposed regulations will have no impact on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California, because the proposed regulations is providing a standardized list of allowable religious property items. The implementation of this proposed regulation will ensure security and a safety within the institutions, while supporting inmates' right to freedom of religion.

### **COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:**

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

### **EFFECT ON SMALL BUSINESSES:**

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of state prisons.

### **CONSIDERATION OF ALTERNATIVES:**

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the proposed regulatory action. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

### **AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:**

The Department has prepared, and will make available, the text, any documents incorporated by reference, and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, documents incorporated by reference, and Notice of Proposed Regulations will also be made available on the Department's website <http://www.cdcr.ca.gov>.

### **INCORPORATION BY REFERENCE:**

The Religious Property Matrix, and the Proposed revisions to the Authorized Personal Property Schedules (religious property items only deleted), are documents incorporated by reference into these regulations will be made available to the public along with the Notice of Proposed Regulations, Text of Proposed Regulations, and Initial Statement of Reasons.

### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS:**

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

### **AVAILABILITY OF CHANGES TO PROPOSED TEXT:**

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

### **AUTHORITY AND REFERENCE:**

Penal Code (PC) Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

PC Section 5009(a) provides that it is the intention of the Legislature that all prisoners shall be afforded reasonable opportunities to exercise religious freedom.

### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:**

This action provides the following:

- Amends Section 3000, Definitions, to revise the definition of “Religious Artifact.”
- Amends the Table of Contents Chapter heading to read “Personal Property and Religious Property.”
- Amends Subchapter 2, Article 9 title to include “and Religious Property.”
- Removes religious property items from the Authorized Personal Property Schedule (APPS) (which is incorporated by reference in Section 3190(b)), and places them in a new Religious Property Matrix, which is a separate list of allowable religious personal property items.
- Incorporates by reference, a new Religious Property Matrix into the Title 15.
- Revises the APPS due to the removal of religious items, and gives it a new revision date of 12/1/12.
- Replaces the language “Religious Artifact” with “Religious Item.”

### **SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS:**

The anticipated benefits of the proposed regulations include: minimizing discrepancies of what is allowable religious personal property items within institutions, providing statewide standardization of religious personal property items, reducing potential inmate litigation, compliance with existing court mandates, and supporting inmates’ right to freedom of religion.

### **EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING REGULATIONS:**

The Department has determined that these proposed regulations are consistent and compatible with existing State laws and regulations. The Department reached this conclusion by reviewing the California Code of Regulations, Title 15, Division 3, and reviewing all references to “religious property,” and because the Religious Property Matrix is a newly proposed regulation that is not currently part of existing regulations.